

REMARKS

Claims 1-31 are pending in this application. Claims 1-12, 15-17, 21-24, and 29-31 are allowed. Claims 13, 19 and 25 have been amended, and claims 18 and 31 have been cancelled, without prejudice or acquiescence in order to advance prosecution of the instant application. Support for the amendments to claims 13, 19 and 25 may be found in the specification on page 14, lines 3-9. The issues outstanding in the instant application are as follows:

- Claims 13, 14, 18, 19, 20, 25-28, and 32 have been rejected under 35 U.S.C. § 102(b)/103(a) as allegedly being anticipated by and/or obvious over CN 1210695.

35 U.S.C. § 102(b)/103(a) issues

The Examiner has rejected claims 13, 14, 18, 19, 20, 25-28, and 32 under 35 U.S.C. § 102(b)/103(a) as allegedly being anticipated by and/or obvious over CN 1210695. Applicants respectfully traverse.

Applicants have amended claims 13, 19 and 25 and cancelled claims 18 and 31 in order to advance prosecution of the instant application. CN 1210695 teaches drinking water with calcium salts in concentrations of 10-1,000mg/L. Applicants claim solid, gel, or effervescent oral single dose compositions and compounds of calcium glutarate sufficient to bind with phosphorous in the gastrointestinal tract.

CN 1210695 does not teach or suggest solid, gel, or effervescent oral dosage forms of pharmaceutical compositions excluding non-glutarate calcium salts in amounts sufficient to neutralize gastric acidity. CN 1210695 does not teach or suggest single dose compositions. Thus, CN 1210695 does not teach or suggest all the limitations of the claimed invention and there is no anticipation of claims directed towards compositions for or methods of inhibiting gastrointestinal absorption of phosphorous as taught by Applicants.

Further, there is no motivation to modify CN 1210695 to yield the solid, gel, or effervescent oral dosage forms claimed in the instant application. Drinking water supplmented with nutrients does not in any way suggest solid, gel, or effervescent oral dosage forms of calcium glutarate sufficient to bind with phosphorous in the gastrointestinal tract.

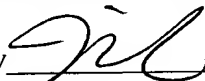
"The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). A statement that modifications of the prior art to meet the claimed invention would have been " 'well within the ordinary skill of the art ' at the time the claimed invention was made' " because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references. *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993) As CN 1210695 does not teach or suggest all the limitations of the claimed invention, Applicants respectfully request withdrawal of the 35 U.S.C. § 102(b)/103(a) rejection.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 06-2375, under Order No. HO-P02490US0 from which the undersigned is authorized to draw.

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Respectfully submitted,

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